

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA


UNITED STATES OF AMERICA,	)	3:05-cr-00098-HDM
	)	3:16-cv-00255-HDM
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER
JOHNATHON ROBERTS,	)	
	)	
Defendant.	)	
_____	)	

Proceedings on defendant's 28 U.S.C. § 2255 petition have been stayed pending the Ninth Circuit's decision in *United States v. Begay*, 14-10080. The *Begay* court has under submission whether the residual clause of 18 U.S.C. § 924(c)(3) is unconstitutionally vague in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). Whether *Johnson* applies to § 924(c)(3) is a threshold question in this case, and the Ninth Circuit's decision in *Begay* will likely answer this question. If *Johnson* does apply, defendant has made a substantial argument that he is entitled to relief under § 2255. Accordingly, so this case will not be unduly delayed once the Ninth

1 Circuit issues its ruling in *Begay*, the government is hereby  
2 ordered to file a response to the defendant's petition (ECF No.529  
3 & ECF No. 555) no later than January 17, 2017. Defendant shall  
4 thereafter have until February 17, 2017, to file a reply. For all  
5 other purposes, this action will remain stayed pending the decision  
6 in *Begay*, or until further order of the court.

7 IT IS SO ORDERED.

8 DATED: This 18th day of November, 2016.

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11 UNITED STATES DISTRICT JUDGE  
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